

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT,

Plaintiff,

v.

MICROSOFT CORPORATION

Defendant.

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CIVIL ACTION NO. 6:20-cv-340

JURY TRIAL DEMANDED

**ORIGINAL COMPLAINT FOR PATENT
INFRINGEMENT**

Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Brazos” or “Plaintiff”), by and through its attorneys, files this Complaint for Patent Infringement against Microsoft Corporation (“Microsoft” or “Defendant”) and alleges:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 1, et seq., including §§ 271, 281, 284, and 285.

THE PARTIES

2. Brazos is a limited liability corporation organized and existing under the laws of Delaware, with its principal place of business at 605 Austin Avenue, Suite 6, Waco, Texas 76701.

3. On information and belief, Defendant Microsoft Corporation is incorporated under the laws of Washington State with its principal place of business at 1 Microsoft Way, Redmond, Washington 98052. Microsoft may be served with process through its registered agent Corporation Service Company, 211 East 7th Street, Suite 620, Austin, Texas 78701.

4. On information and belief, Microsoft has been registered to do business in the state of Texas under Texas SOS file number 0010404606 since about March 1987.

5. On information and belief, Microsoft has had regular and established places of business in this judicial district since at least 2002.

JURISDICTION AND VENUE

6. This is an action for patent infringement which arises under the Patent Laws of the United States, in particular, 35 U.S.C. §§ 271, 281, 284, and 285.

7. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a).

8. This Court has specific and general personal jurisdiction over Microsoft pursuant to due process and/or the Texas Long Arm Statute, because Microsoft has committed acts giving rise to this action within Texas and within this judicial district. The Court's exercise of jurisdiction over Microsoft would not offend traditional notions of fair play and substantial justice because Microsoft has established minimum contacts with the forum. For example, on information and belief, Microsoft has committed acts of infringement in this judicial district, by among other things, selling and offering for sale products that infringe the asserted patent, directly or through intermediaries, as alleged herein.

9. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§1391 and/or 1400(b).

10. This district was deemed to be a proper venue for patent cases against Microsoft in actions bearing docket numbers: 6-19-cv-00572 (*Zeroclick, LLC v. Microsoft Corporation*); 6-19-cv-00687 (*Exafer, Ltd. v. Microsoft Corporation.*); and 6-19-cv-00399 (*Neodron Ltd. v. Microsoft Corporation*).

11. On information and belief, Microsoft maintains a variety of regular and established business locations in the judicial district including its Corporate Sales Office Locations, Retail Store Locations, and Datacenter Locations.

12. On information and belief, Microsoft operates multiple corporate sales offices in the judicial district, and these offices constitute regular and established places of business.

13. On information and belief, Microsoft employs hundreds of employees within its corporate sales offices located in the judicial district.

14. On information and belief, Microsoft has an established place of business in this judicial district known as “Corporate Sales Office: Austin” located at 10900 Stonelake Boulevard, Suite 225, Austin, Texas 78759 and “Microsoft Retail Store: The Domain” located at 3309 Esperanza Crossing, Suite 104 Austin, Texas 78758.

Microsoft U.S. office locations

Microsoft reaches customers at sales offices, support centers and technology centers throughout the country. Use the clickable map or the location links for more information.

78759 OR Enter State All

1. Corporate Sales Office: Austin 10900 Stonelake Boulevard, Suite 225 Austin, TX, USA 78759 View directions	1.18 mi
2. Microsoft Retail Store: The Domain 3309 Esperanza Crossing, Suite 104 Austin, TX, USA 78758 View directions	1.79 mi

The screenshot also includes a map of the Austin area with a red pin marking the first location. The map shows major roads like Mopac Blvd and I-35, and nearby areas like Anderson Mill, Pflugerville, and Elgin.

<https://www.microsoft.com/en-us/about/officelocator?Location=78759>

15. On information and belief, Microsoft’s “Corporate Sales Office: Austin” and “Microsoft Retail Store: The Domain” locations were respectively assessed by the Travis County Appraisal District in 2019 to have market values of over \$2.3 million dollars and \$2.7 million dollars.

Property ID	Geographic ID	Type	Property Address	Owner Name	DBA Name	Appraised Value
434688		Personal	10900 STONELAKE BLVD 8-225 AUSTIN, TX 78759	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$2,300,856
818154		Personal	3309 ESPERANZA CROSSING 104 AUSTIN, TX 78758	MICROSOFT CORPORATION	MICROSOFT CORPORATION STORE #11	\$2,702,083
846391		Personal	12812 SHOPS PARKWAY 300 TX 78738	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$205
846393		Personal	907 W 5 ST 101 TX 78703	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$623
846400		Personal	9600 S INTERSTATE HY 35 TX 78748	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$276
846401		Personal	1201 BARBARA JORDAN BLVD 3-700 TX 78723	MICROSOFT CORPORATION	MICROSOFT CORPORATION	\$26,744

<http://propaccess.traviscad.org/clientdb/SearchResults.aspx>

16. On information and belief, Microsoft has another established place of business in this judicial district known as “Corporate Sales Office: San Antonio” located at Concord Park II, 401 East Sonterra Boulevard, Suite 300, San Antonio, Texas 78258.



Source: Google Maps

17. On information and belief, Microsoft owns and operates multiple datacenters in the judicial district, including without limitation data centers located at 5150 Rogers Road, San Antonio, Texas 78251; 5200 Rogers Road, San Antonio, Texas 78251; 3823 Weisman Boulevard, San Antonio, Texas 78251; and 15000 Lambda Drive, San Antonio, Texas 782245.

18. On information and belief, Microsoft utilizes its datacenter locations in this judicial district as regular and established places of business. As a non-limiting example, the data centers in San Antonio are referred to within Microsoft as “US Gov Texas.”

19. On information and belief, thousands of customers who rely on the infringing datacenter infrastructure that Microsoft’s engineering and operations teams have built, reside in this judicial district.

COUNT ONE - INFRINGEMENT OF
U.S. PATENT NO. 8,625,758

20. Brazos re-alleges and incorporates by reference the preceding paragraphs of this Complaint.

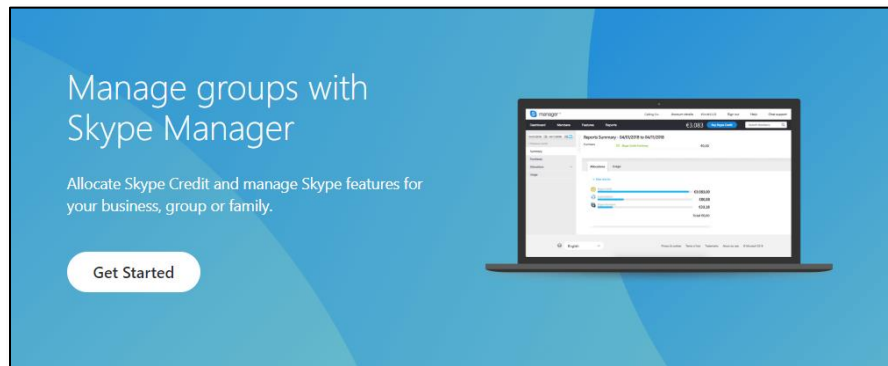
21. On January 7, 2014, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 8,625,758 (“the ’758 Patent”), entitled “Method, a Telecommunication System and a Network Node for Sponsoring a Communication Service.” A true and correct copy of the ’758 Patent is attached as Exhibit A to this Complaint.

22. Brazos is the owner of all rights, title, and interest in and to the ’758 Patent, including the right to assert all causes of action arising under the ’758 Patent and the right to any remedies for the infringement of the ’758 Patent.

23. Microsoft makes, uses, sells, offers for sale, imports, and/or distributes in the United States, including within this judicial district, products such as, but not limited to, group


meeting platform managers, including Microsoft Skype Manager (collectively, the “Accused Products”).

24. Microsoft’s Skype is a telecommunications application and platform that provides video chat and voice calls between computers, tablets, mobile devices, the Xbox One console, and smartwatches via the Internet. Skype also provides instant messaging services. Users may transmit text, video, audio, and images. Skype Manager is a web-based management tool that allows an administrator centrally manage Skype for a business, including setting up business Skype accounts for employees, keeping track of costs, allocating features, and monitoring Skype usage.



<https://www.skype.com/en/skype-manager/>

25. The Accused Products allow a business to sponsor the communications conducted by employees with Skype accounts on the Skype service. The administrator using the Accused Products handles buying credit and features instead of the employees themselves.



Manage your company or group

Add and remove members, configure automatic recharge and much more.

Allocate Skype Credit or subscriptions

Automatically add credit, subscriptions or Skype Numbers to your group members.

Full visibility over your spending

Take advantage of dashboard and reports to keep you calling costs and usage under control.

[Get Started](#)

<https://www.skype.com/en/skype-manager/>

26. An administrator can use the Accused Products to add credits to the business's account and allocate these credits to the employees.

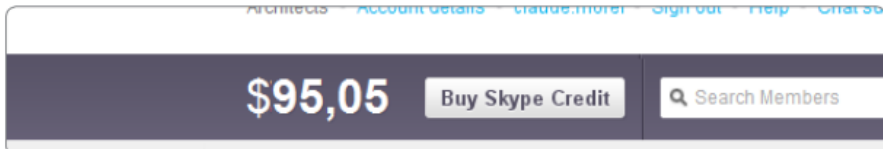
5.0 Skype Credit

Before allocating credit or features to members of your Skype Manager for the first time, you need to buy Skype Credit for your Skype Manager. It's easy to buy Skype Credit in Skype Manager. You can pay for Skype Credit using a credit card, PayPal and lots of other ways. Once you have bought some Skype Credit, you can allocate it to your members for calling or use it to buy features to allocate to your members.

If you want to learn more about how to allocate Skype Credit to your members, please see [6.1 Credit allocations](#).

5.1 Finding your Skype Manager credit balance

Your current Skype Manager credit balance is always displayed on the toolbar of your Skype Manager.



<https://download.skype.com/share/business/guides/skype-manager-user-guide.pdf>

27. After purchasing the credits, an administrator can allocate different features to the employees. Whenever an employee uses communication service (e.g. makes a call), a request is

generated for the employee if respective features and credits are available for the employee to establish the communication service.

- **Allocate Skype Credit**

Buy Skype Credit centrally and then allocate it to your employees as needed. Monitor their expenditure and usage with reports that can be generated at a company, departmental or employee level.

- **Allocate features**

Give your employees the tools they need to collaborate and work smarter. Buy and allocate features like subscriptions, group video calling, Online Numbers, call forwarding and voicemail.

All products are pre-paid giving you flexibility over how you manage your company's expenditure on Skype and for many features, you can decide whether to be billed monthly, quarterly or annually.

Skype Manager is the simple way to manage Skype in your business.

<https://download.skype.com/share/business/guides/skype-manager-user-guide.pdf>

28. Under the Member's Allocations sections, an administrator using the Accused Products can view the services and features allocated to respective employees. These services and features help in evaluating different charges incurred by the business in sponsoring the cost of services allocated to employees, and the rules allowing access to particular employees for individual services can be dynamically accessed and adjusted.

7.4 Displaying a Member's Allocations report

This report provides a detailed list of the features allocated to a specific member in a given month. This report is particularly useful if you want to find out which features have been allocated to a member and how much it has cost.

<https://download.skype.com/share/business/guides/skype-manager-user-guide.pdf>

29. As an example, an employee will be charged differently if they call mobile and landline number services for different countries. Thus, the different credit amounts will be

deducted from the given credits of the business as the calls occur.

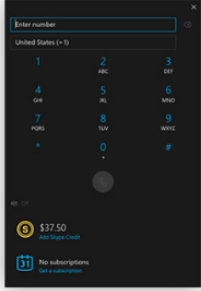
Call mobile and landline numbers

Say hello, even if your friends and family aren't on Skype. Get affordable international calling to mobiles and landlines anytime – day or night. It's amazing how little it costs to call people on the other side of the world, or just across town.

With low domestic and international calling rates, and no peak times, you can talk to those who matter most, whenever you want.

Pay for calls to mobile and landline numbers with Skype Credit or, if you call international numbers regularly, you could save even more with a subscription.

[View rates](#)



<https://www.skype.com/en/features/call-phones-and-mobiles/>

30. Similarly, online text messaging communication service has different charges than phone and landline number services. Thus, the business will be charged differently if an employee uses different services.

Online Texting Rates

You'll need [Skype Credit](#) to send text messages at really low rates. SMS text message rates vary by where the phone is that you're texting. Try Skype for a month free and see how easy it is to send online texts. Plus, there are many ways to pay for Skype and they vary by country. You'll love texting online with Skype. Text from anywhere via the Skype app on your phone or on your desktop. It works on every device and is available for Windows, OSX, iPhone, iPad, Android, Xbox or in your browser.

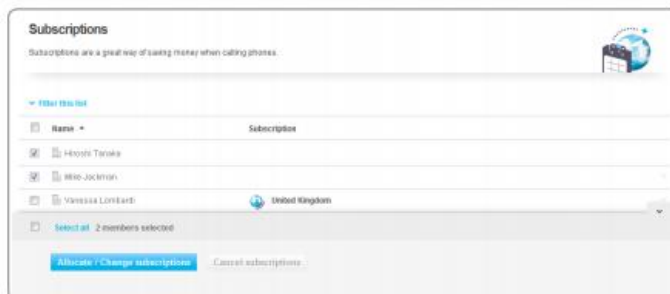
<https://www.skype.com/en/features/sms/>

31. An employee can thus directly use different services based on their subscriptions provided by the administrator and the credits allocated to the business.

6.2.1 Allocating or changing subscriptions

To allocate a subscription to one or more members, or to change existing subscriptions:

1. Click **Features** in the toolbar.
2. In the menu on the left, click **Subscriptions**.
The subscription details of your members are displayed.
3. Check the box next to each member to whom you want to allocate a subscription.



4. Click **Allocate / Change subscriptions**.
5. Select the subscription you require, and how often you would like to be billed and click **Buy now**.

The subscription will become available in a few minutes and its cost will be deducted from your Skype Manager credit balance.

<https://download.skype.com/share/business/guides/skype-manager-user-guide.pdf>

32. An administrator using the Accused Products allocates credits to employees, who can be group members. The group members incur charges based on the services used. An administrator can analyze detailed usage of services by the employees with the help of member usage reports where they can see the charging records based on the usage by the employees.

7.6 Displaying a Member's Usage report

The **Usage** report is a detailed activity report of a specified member's Skype usage. This report is particularly useful if you want to find out how an individual member is using Skype.

To display the **Member's Usage** report:

1. View the details of the member whose report you want to view. For more information on how to do this, please see [4.6 Managing your members](#).
2. In the menu on the left, click **Reports**.

The **Member's Usage** report is displayed by default.

Date	Item	Type	Rate/amt.	Duration	Amount
May 14, 2011 10:54	+0288721** Estonia - Mobile	SMS	0.30		0.30
May 14, 2011 10:54	+0288721** Estonia - Mobile	Call	0.09	08:10	1.17

3. You can specify the month on which to run the report by selecting the month from the drop-down list in the menu on the left or by clicking **Previous month** or **Next month**. By default, the current month is selected.
4. You can filter the report by type of usage. For example, to display the member's SMS usage for the current month, click **Filter this list**, then select **SMS** from the **Filter by Item** drop-down list.

<https://download.skype.com/share/business/guides/skype-manager-user-guide.pdf>

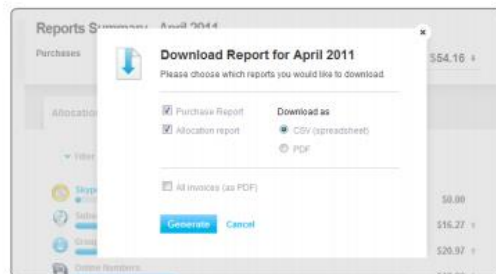
7.7 Downloading reports and invoices

You can download **Purchase** and **Allocation** reports for a given month, as well as all invoices generated in a given month. These can be downloaded as comma-separated value (CSV) or PDF format files.

To download reports and invoices:

1. Click **Reports** in the toolbar.
2. In the menu on the left, click **Download reports**.

55 Skype Manager User Guide



3. Choose the reports you would like to download and your desired format and click **Generate**.

The selected reports and invoices are downloaded as a zip file.

<https://download.skype.com/share/business/guides/skype-manager-user-guide.pdf>

33. In view of preceding paragraphs, each and every element of at least claim 1 of the '758 Patent is found in the Accused Products.

34. Microsoft has and continues to directly infringe at least one claim of the '758 Patent, literally or under the doctrine of equivalents, by making, using, selling, offering for sale, importing, and/or distributing the Accused Products in the United States, including within this judicial district, without the authority of Brazos.

35. Microsoft has received notice and actual or constructive knowledge of the '758 Patent since at least the date of service of this Complaint.

36. Since at least the date of service of this Complaint, through its actions, Microsoft has actively induced product makers, distributors, retailers, and/or end users of the Accused Products to infringe the '758 Patent throughout the United States, including within this judicial district, by, among other things, advertising and promoting the use of the Accused Products in various websites, including providing and disseminating product descriptions, operating manuals, and other instructions on how to implement and configure the Accused Products. Examples of such advertising, promoting, and/or instructing include the documents at:

- <https://www.skype.com/en/skype-manager/>
- <https://www.skype.com/en/features/call-phones-and-mobiles/>
- <https://download.skype.com/share/business/guides/skype-manager-user-guide.pdf>
- <https://www.skype.com/en/features/sms/>

37. Since at least the date of service of this Complaint, through its actions, Microsoft has contributed to the infringement of the '758 Patent by having others sell, offer for sale, or use the Accused Products throughout the United States, including within this judicial district, with knowledge that the Accused Products infringe the '758 Patent. The Accused Products are

especially made or adapted for infringing the '758 Patent and have no substantial non-infringing use. For example, in view of the preceding paragraphs, the Accused Products contain functionality which is material to at least one claim of the '758 Patent.

JURY DEMAND

Brazos hereby demands a jury on all issues so triable.

REQUEST FOR RELIEF

WHEREFORE, Brazos respectfully requests that the Court:

(A) Enter judgment that Microsoft infringes one or more claims of the '758 Patent literally and/or under the doctrine of equivalents;

(B) Enter judgment that Microsoft has induced infringement and continues to induce infringement of one or more claims of the '758 Patent;

(C) Enter judgment that Microsoft has contributed to and continues to contribute to the infringement of one or more claims of the '758 Patent;

(D) Award Brazos damages, to be paid by Microsoft in an amount adequate to compensate Brazos for such damages, together with pre-judgment and post-judgment interest for the infringement by Microsoft of the '758 Patent through the date such judgment is entered in accordance with 35 U.S.C. § 284, and increase such award by up to three times the amount found or assessed in accordance with 35 U.S.C. § 284;

(E) Declare this case exceptional pursuant to 35 U.S.C. § 285; and

(F) Award Brazos its costs, disbursements, attorneys' fees, and such further and additional relief as is deemed appropriate by this Court.

Dated: April 29, 2020

Respectfully submitted,

/s/ James L. Etheridge

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